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**CORRESPONDENCE.**

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Virginia Law Register,  
Charlottesville, Va.

Gentlemen:

I have read with much interest the case of *Layton v. Brown* decided by the Circuit Court of Stafford County on May 10, 1920. The decision of the Court in this case was plainly right, but I note that the Court says by way of dicta at page 181 that if the owner of a dog had not complied with the provisions of the statute in regard to paying the license tax thereon, "he could not prosecute one who stole him, or maintain an action for injury to him." If the Court meant that no criminal prosecution could be maintained for an injury to a dog on which the taxes had not been paid then the Court is right, but a civil action can be maintained to recover damages for an injury to a dog whether the taxes have been paid on him or not.

It is expressly decided in *Davis v. Commonwealth*, 17th Grattan 617, referred to in the opinion of the Court, that the law in Virginia is that so far as civil actions are concerned dogs are personal property and civil actions can be brought in regard to any other species of personal property, and this is generally held to be their status at common law by most of the States.

From the opinions of Judges Moncure and Joynes in the case of *Davis v. Commonwealth*, who both delivered opinions in that case, it appears that if that case had been one of first impression the decision would have been different, but they felt bound by the former decision of the Court in *Maclin' Case*, 3rd Leigh, page 809.

It would seem that there is no reason why a dog should not be accorded all of the rights that are accorded to other domestic animals, such as horses, cows, etc., especially is this true now on account of the high rate of taxes placed on dogs.

The State now derives a much larger revenue from the tax imposed on dogs than it does from the tax imposed on sheep, for the protection of which ostensibly the dog is taxed, and I doubt not if the amount of the dog tax equals or exceeds the tax derived from any other species of domestic animal.

Of course, it may be said that if the tax is paid on the dog he is then accorded the same protection of any other domestic animal, but this is no reason why the dog should be discriminated against. Especially is this true in view of the fact that the failure now to pay the dog tax is made a misdemeanor, a penalty not imposed on the failure to pay the tax on any other domestic animal.

Yours very truly,

Allan Epes.